

## **Terms of use**

Please read these Terms of Use ("Terms") carefully – by accessing or making any use of services (including websites, apps) provided by Golf Apps LTD, you are agreeing to them. You also agree to our Privacy Policy, which sets out how we deal with SwingPlane users' personal information and privacy, and can be viewed below these terms.

### **1. Introduction**

These Terms set out your rights and obligations, and those of Golf Apps Limited ("we" or "us"), in relation to [www.iGolfApps.com](http://www.iGolfApps.com), including any subdomains (the "Site"), "Golf SwingPlane" or "Golf SwingPlane HD" that you access (the "App(s)") and any goods or services available through, and material of any kind accessible or relating to, the Site, the App or us (the "Services"). When we refer to "SwingPlane" in these Terms, we mean us, the Site, the App and/or the Services, according to the context.

You must take the time to read and understand these Terms before using SwingPlane. By registering with SwingPlane, you accept that you are entering into a contract with us under these Terms. People who register for SwingPlane establish an "Account", and become "Users". Visitors to SwingPlane who do not become Users, but who nevertheless use the Site and/or download the App, affirm that they are bound by these Terms each time they access SwingPlane. You should be aware that these Terms may change from time to time in accordance with Clause 20 below.

### **2. Obtaining an Account**

If we ask you to provide some information about yourself when you register for SwingPlane, you must ensure that this information is accurate and current. You may keep this information updated through your Account.

Note that we are entitled to treat anything done through a User's Account, or by means of an email address, phone number or other communications method associated with that Account, as having been done by the User; it is up to the User to maintain the security of his/her Account.

When you place an order for a Product, you will need to supply us with details of a payment method, such as a credit or debit card, which we accept at the time of your order (your "Payment Method") and other personal details so that we may process the order for you. In the event that you supply or attempt to use an invalid Payment Method an order made using that Payment Method will fail. If we suspect that your Payment Method belongs to someone else or is one which you are not entitled to use, we reserve the right to suspend or terminate your Account at any time.

The same person may not register more than one Account. We reserve the right to suspend or terminate any Account which we reasonably suspect of infringing this requirement.

Important: You must ensure that the email address we hold for you is kept up-to-date and that you have full access to it – we will be sending you important messages there. So if you change email address, then you must change it on your Account. Should you provide an invalid email address or an email address that belongs to someone else, SwingPlane may terminate your Account at any time without notice.

You should not register as a User if you are under 13 years of age.

### **3. The Essentials of SwingPlane**

SwingPlane provides Users with the facility to record, analyse, share, upload and store digital videos, notes, and drawings (each a “video”), and to access those videos through the User’s Account. All videos must meet our video specifications, which may be changed by us from time to time.

For further guidance and information on uploading videos please visit our FAQs, or view the instructions in the app.

SwingPlane also offers Users the ability to order:

"Pro" golf swing videos;

personalised golf lessons and services which bear Users’ videos on or within them;

other, non-personalised, products and services,

and we refer to those lessons, products and services as our “Products”.

As SwingPlane evolves and changes over time, we may add Products or remove Products from our Services. Clause 6 contains the terms of purchase for Products. It is the responsibility of Users to have sufficient web, app and device usage skills to make use of our Services.

Although we incur cost in providing you with the facility to store and access your videos and other User Content with SwingPlane (your “video Storage”), we don’t charge you for video Storage. However, we reserve the right to introduce a policy under which we may withdraw your video Storage if (a) you have not purchased a personalised Product from us through your Account at least once in any given twelve month period,(b) we have notified you by email of the fact, and of our intention to withdraw your video Storage unless you purchase a personalised Product, and (c) you have not purchased a personalised Product from us within 30 days of that emailed notification. We will notify Users by email if and when we are to commence enforcing this policy.

### **4. Your videos**

SwingPlane allows you to access your videos through your Account. However, please note that:

We provide video Storage at no cost principally in order to facilitate Users’ creation and purchase of personalised Products bearing their videos

Accordingly, we do not intend or invite Users to store their videos other than for those purposes

We do not currently apply a fixed limit to the volume of videos which may be uploaded provided you comply with our reasonable fair use requirements

Those fair use requirements would be breached by, for example:

The automated or scripted uploading of videos or other User Content;

The uploading of videos or other User Content on a high-frequency basis; or

The inclusion of very large volumes of videos or other User Content in an individual album

Should you breach our fair use requirements, we may suspend your Account, cease to provide you with video Storage and/or delete your videos and other User Content from our systems

We are entitled to introduce a policy for the removal of your video Storage if you do not make limited purchases of personalised Products from us (see Clause 3 for details of this policy)

In the course of storing your videos, we reserve the right to apply various techniques to make generally accepted improvements to the quality of the video.

We also reserve the right to make changes to videos which are intended to improve their storability, including:

Compression;

Size reduction and downscaling; and

Format conversion,

We strive to retain videos that are of sufficient quality for inclusion in personalised Products, but some loss and modification of detail may be apparent under close examination;

We use reasonable commercial endeavours in our provision of video Storage, but do not provide any guarantees as to the availability, speed of access to or reliability of the storage we provide;

videos and other User Content may be deleted from your Account in various circumstances, as stated elsewhere in these Terms (including Clause 8);

Our policies concerning the storage of videos and User Content may change from time to time;

If an video does not meet our specifications you may not be able to upload it and/or you may find that it is not possible to use that video in conjunction with some or all of our Products;

We have rules about User Content, and these apply to the content of videos (see Clause 5 below) (“Content Rules”); if you breach our Content Rules, we may – amongst other things – terminate your Account. And if your Account is terminated, we may delete all videos associated with that Account, so that they will no longer be accessible; and

If we are notified of a claim or allegation that an video breaches our Content Rules, we may prevent that video being accessible through SwingPlane or being used in connection with Products.

Note that we may send you emails which include your videos, or to create examples of personalised Products which may be of interest to you: by uploading videos, you consent to us doing these things with those videos.

SwingPlane allows you to share your videos with others by allowing public access to your videos. This sharing can be effected by you on a per video basis, a default is applied to all videos that you can control through your account.

you undertake that you have those Guests’ consent to the sharing of your videos with them;

you agree that doing so will not result in an infringement or perceived infringement of our Content Rules; and

you acknowledge and agree that Guests – and others with whom they may share the videos – may:

purchase Products which include those videos;

submit comments about the videos; and

notify us if videos infringe our Content Rules.

We are not responsible for the acts or omissions of Guests.

You must not share or allow access to any of your videos in return for payment or for any other commercial purpose.

If you delete videos from your Account, we will promptly remove the videos from the “videos” view in your Account, but the videos will not be completely erased from our systems; “deep” links which lead directly to the relevant videos may continue to provide access to those videos.

You are advised to keep back-ups of all of your User Content, including backup copies of videos. We do not undertake or guarantee to keep your videos and other User Content indefinitely, and we will not be responsible for the loss of, deletion or corruption of videos or any User Content. We do not keep back-up copies of videos and other User Content; we have no liability to you or any User if videos or other User Content become lost or corrupted as a result of any cause (including human error, software or hardware failure, failures of telecommunications or internet services, or events beyond our control, or app updates, operating system updates or device upgrades).

If we actively decide that we are to cease hosting videos or other User Content, we will give you reasonable advance notice (of at least three months' duration) to permit you to make alternative arrangements.

It is expected that users are familiar with the backup and restore processes of the devices SwingPlane is installed on, and backups are taken at regular intervals and before any app updates, operating system updates or device upgrades or any other event that may cause the loss of content of the app.

## **5. User Content and Content Rules**

videos and other material (including textual annotations to and comments on videos) uploaded, posted, contributed, distributed, communicated, transmitted or linked-to by a User on, through or in connection with SwingPlane are treated as "User Content" for the purposes of these Terms. Users must have the right to deal with their User Content in the manner provided by our Services. You must not upload User Content, or otherwise deal with User Content through SwingPlane, if you do not have the right to do so. Each User shall ensure that his/her User Content does not:

- infringe anyone's copyright; in particular, you must ensure that you either own the copyright in an video that you upload to SwingPlane or that you are fully licensed by the copyright owner to upload the video and to make any subsequent use of it (such as by including the video in a personalised Product);
- infringe any other rights, such as a trade mark, of any person or entity or a duty owed to any person or entity, such as a duty of confidentiality;
- contravene any applicable law (including, without limitation, any criminal law) or regulation;
- include anything that is false, inaccurate, misleading, offensive, abusive, threatening or defamatory, or that might cause needless annoyance, inconvenience or distress to any person;
- contain any computer virus, macro virus, Trojan horse, worm, or anything else designed to interfere with, interrupt, or disrupt the normal operating procedures of a computer or to surreptitiously intercept, access without authority, or expropriate any system, data or personal information;
- misrepresent the User's identity in any way or impersonate any person;
- include any material containing personally identifying information about another person, such as their real name, address, phone number, or email address, except with the written approval of that person;
- contain material which is pornographic, obscene, indecent or offensive, which promotes discrimination based on race, sex, religion, nationality, disability, sexual orientation or age, or that may incite hatred or violence against any person or group;
- harass, upset, embarrass, alarm or annoy any person;
- give the impression that it emanates from us, if this is not the case;
- advocate, promote or assist any unlawful act such as (by way of example only) copyright infringement or computer misuse; or
- infringe our fair use requirements (see Clause 4 above) or otherwise interfere with the proper working of SwingPlane.

The above are our Content Rules.

Although we prohibit the uploading of videos and other User Content which infringes our Content Rules, we cannot control and do not monitor or pre-screen the use of our Site and App. It is possible that videos or other User Content may be accessible through our Site and App which contravenes our Content Rules. We are not responsible for such videos or User Content, but if you become aware of any such videos or User Content on our Site or App please contact us here.

We may without notice delete any video or other User Content which appears to breach our Content Rules, or prevent any use of Services (including purchase of Products) which includes any such video or User Content.

## **6. Terms of purchase for Products**

A contract between a User and SwingPlane for the purchase of a Product is created as follows:

The User places the order for a Product on the Site or App by pressing an order confirmation button at the end of the checkout process: if the Product in question includes an video or other User Content selected by the User it is a “personalised Product”; if it is a standard Product which does not include any video or User Content it is a “non-personalised Product”

By confirming your order, you are agreeing to purchase the Product you have selected Note that SwingPlane may reject an order in certain circumstances, namely:

Your order breaching the requirements of these Terms;

The use of videos which infringe the Content Rules;

The use of videos which are corrupted, unsupported technically or inadequately pixelated;

The Product you order being unavailable;

Our inability to obtain authorisation for your payment; or

A relevant pricing or Product description error being identified.

## **7. International use of SwingPlane**

You must ensure that you comply with the laws that apply to you and your use of SwingPlane, including as to User Content, the videos that may be viewed and the Products that may be bought through SwingPlane. That use may be prohibited or restricted in various jurisdictions.

## **8. Closure of Accounts**

You may choose to cancel your Account at any time here You may be asked to provide further proof that you are the holder of the Account. Further, we are entitled to lapse an Account if its User has not logged in to the Account for two years or more. If your Account is terminated because you have breached this Agreement (including a breach of our Content Rules), we may prohibit you from establishing another Account. Where an Account is cancelled, lapses or is terminated, we are entitled to close the Account and entitled (but not obliged) to delete all videos and other User Content associated with that Account. You will nevertheless remain responsible for performing your obligations under these Terms, and the rights granted to us under these Terms (including in Clause 9) shall not be terminated as a result.

## **9. Intellectual Property**

By uploading, posting, contributing, distributing, communicating or transmitting User Content (including videos), a User expressly grants to us a non-exclusive, royalty-free, irrevocable licence (including the right to grant sub-licences through multiple tiers) to use, reproduce, adapt, distribute and communicate to the public that User Content (a) worldwide through SwingPlane and any other interactive services through which SwingPlane (or a service based on SwingPlane) is accessible, and (b) too perform obligations and exercise rights under these Terms. For the avoidance of doubt, the licence under this Clause 9 will survive any termination of these Terms or any cancellation,

suspension or lapse of the relevant Account. Note that we may modify User Content in order to conform it to SwingPlane or the requirements of a Product (such as by cropping videos). You acknowledge that all copyright, trade marks, and other intellectual property rights in and relating to SwingPlane (including, without limitation, User Content associated Users other than you) are owned by, or licensed to, us. You may use and access SwingPlane and that User Content only to the extent required for the use of the Services in accordance with these Terms, and for the purpose that we make them available. No-one may copy, distribute, show in public or create any derivative work from SwingPlane, or any of the material which is found on SwingPlane unless properly licensed to do so by us. You are not allowed to use SwingPlane (or to copy or use any material found on SwingPlane) for any commercial purpose other than to conduct the purchase of a Product from SwingPlane. You are not allowed to remove any copyright, trade mark or other intellectual property notices contained in material taken from SwingPlane. No-one may use any robot, spider, scraper or other automated means to access SwingPlane for any purpose without our prior express written permission.

## **10. Privacy**

Our Privacy Policy governs all users of SwingPlane. By using or accessing SwingPlane, you give your consent to the content of that policy. If you do not wish your personal data to be handled in that way, then you must not use SwingPlane. Users shall not use the Services in connection with the sending of any unsolicited messages, or to harvest or otherwise collect information about Users, including email addresses, without their express consent. No User shall use any information regarding other Users that is accessible through the Services except as expressly permitted by these Terms.

## **11. Our Role**

To the extent that the law permits, you release SwingPlane, its agents, directors, officers, shareholders and employees from all liability arising out of or in connection with any videos or other User Content. You must not assume that accessing, the import or export, or the advertising, offering, purchase or sale, of any video, User Content or Product complies with applicable law or regulation by reason of it appearing on SwingPlane. We do not have any responsibility or liability for the deletion of, or any failure to store or deliver, videos or User Content.

The responsibility for backing up of user created data in the app rests exclusively with the user. This includes, but is not limited to backing this data up before app upgrades, operating system upgrades, device upgrades or any other action where the loss of data is a possibility. The user expressly indemnifies Golf Apps LTD from any liability arising from the loss of data.

SwingPlane may contain links to or advertisements for other sites, services or products ("Third Party Promotions"). Third Party Promotions may contain materials which you find offensive, objectionable, unlawful or inaccurate. The sites or other destinations to which Third Party Promotions lead are governed by their own terms of use and privacy policies which will differ from these Terms. The inclusion of links to Third Party Promotions does not indicate that we endorse them and we are not responsible for examining or evaluating the content of such sites or destinations or goods or services available through them.

## **12. Suspension**

We reserve the right at any time and without notice (a) to suspend or terminate your ability to access SwingPlane, (b) your use of all or part of the Services, (c) to remove from access via SwingPlane any User Content associated with a User or his/her Account, (d) to warn Users and other users of SwingPlane against interacting with a particular User, and/or (e) to take technical and legal steps to stop any Users from using SwingPlane if they appear to us to be in breach of any provision of these Terms. Should we do so, you acknowledge that we shall not incur any liability to you or to any other person. In addition, we are entitled to suspend provision of all or part the Services, or the availability of User Content associated with any User, at any time if we are obliged or advised to comply with an order, instruction or request of any limb of government, or any regulator, court or other competent authority.

## **13. Contact from third parties.**

If anyone contacts us in relation to User Content or a transaction associated with you, then you agree:  
to provide all reasonable information and assistance we may require in connection with responding to that contact; and  
to respond promptly and accurately to it, should we pass the message to you for a response.

## **14. Additional services.**

We, our affiliates or third parties with which we contract may offer new, updated or additional services through SwingPlane from time to time. Your use of those services will be governed by these Terms but may also be subject to additional terms of use, which you must comply with. Provided that those terms are notified to you on SwingPlane in an appropriate manner (as determined by us in our reasonable discretion) when you agree to take those services, any failure by you to comply with a material provision of the terms governing those services will amount to a breach of these Terms.

## **15. Operation of SwingPlane**

We reserve the right to withdraw or modify all or part of the Services or SwingPlane where we have legal or commercial reasons to do so. There may be times when the operation of SwingPlane is adversely affected, or becomes inaccessible, as a result of technical difficulties experienced by SwingPlane, on the Internet or other communications networks, or other matters that are beyond our control. Please note, however, that we cannot guarantee continuous, uninterrupted or secure access to SwingPlane or any of the material that appears on it. If we are conducting a period of planned unavailability of the Services, we will inform Users of this by a notice that appears on one or more pages of our website. For security or other reasons, we may require you to change your password or other information which facilitates access to SwingPlane; however, we will never ask you for your password. You are solely responsible for maintaining the confidentiality of your password and any additional identifying information.

## **16. Liability**

We use reasonable care and skill to provide SwingPlane in accordance with our specifications for SwingPlane but:

the Services are provided "as is"; and

we cannot and do not guarantee that SwingPlane or the Services will meet your requirements, including (without limitation) as to the availability or speed of delivery of any User Content placed on or made through SwingPlane.

We shall have no obligation, duty or liability whatsoever in contract, tort (including negligence, breach of statutory duty and any other tort) or otherwise, save as expressly provided in these Terms. Nothing in these Terms excludes or restricts our liability for fraudulent misrepresentation or for death or personal injury resulting from our negligence, nor our contractual obligations in respect of Products we agree to supply following our acceptance of your order in accordance with Clause 6. We, our agents, directors, officers, shareholders, employees and subcontractors will not be liable to you or anyone else, whether in contract, tort (including negligence, breach of statutory duty or other tort) or otherwise:

for any loss of revenue, data, business, anticipated savings, profits, opportunity, goodwill or reputation, or for any business interruption; or

for any indirect, special or consequential loss damage, costs or other claims, howsoever caused or arising. Except as expressly stated elsewhere in these Terms, all representations, warranties, conditions and other terms, whether express or implied (by common law, statute, collaterally or otherwise) are hereby excluded, except in the case of fraud, or where such exclusion is not permitted by law. For the avoidance of doubt, SwingPlane will not have liability to you or any other person in respect of User Content. We will not be liable for any failure to perform our obligations under these Terms caused by matters beyond our reasonable control. The provisions of this Clause 16 shall survive the termination or expiry of these Terms.

## **17. Indemnity**

You agree to indemnify SwingPlane, its agents, directors, officers, shareholders, employees and subcontractors against all liabilities, claims and expenses that may arise out of or in connection with any:

breach of these Terms by you or through your Account; or  
User Content associated with you or your Account.

## **18. Assignment**

We reserve the right to assign these Terms, and to assign or subcontract any or all of our rights and obligations under these Terms, but will not do so in such a way as to reduce any guarantees you are given under these Terms. You may not without the written consent of SwingPlane assign or dispose of these Terms or any of your rights and obligations under it.

## **19. Entire Agreement**

These Terms are intended to contain your entire agreement with us relating to your use of and access to SwingPlane; we believe them to be fair and reasonable. They replace all earlier agreements and understandings with you relating to SwingPlane.



## **20. Changes to these Terms**

We reserve the right to change these Terms from time to time, and post the new version on SwingPlane. The new version of these Terms will take effect: commencing 28 days after the date of posting (or such later date as we indicate in the relevant posting), if any of the changes is to an operative provision of these Terms which is capable of adversely affecting you; or immediately upon the date of posting (or such later date as we indicate in the relevant posting), if the changes are not reasonably capable of adversely affecting you - examples of which would include, without limitation, (i) changing the name of, and/or the web-address ([www.iGolfApps.com](http://www.iGolfApps.com)) that you use to access, SwingPlane, and (ii) the refinement of provisions that are already included or referred to in these Terms. In either case, if you do not wish to be governed by the new version of these Terms, you must cease to use the Services and SwingPlane. For the avoidance of doubt, we will not have any liability to you in that event.

## **21. General**

If any part of these Terms is held to be invalid or unenforceable, the remainder shall remain valid and enforceable. Our failure to act with respect to a breach of these Terms by you or others does not waive our right to act with respect to subsequent or similar breaches. The headings to the Clauses are for ease of reference only and do not affect the interpretation or construction of these Terms. A person who is not a party to these Terms has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any of these Terms, provided that this shall not affect any right or remedy of a third party which exists or is available apart from that Act.

## **22. Law**

These Terms, the Services and each order and purchase of a Product shall be governed by English law. You and we each submit to the non-exclusive jurisdiction of the English courts in relation to disputes arising in connection with these Terms, the Services and any order for or purchase of a Product.

## **23. Keeping these Terms**

We don't separately file the Terms entered into by Users when they register for SwingPlane. You can access them at here. Please make a durable copy of these Terms by printing and/or saving a downloaded copy on your own computer. They are offered in English only.

## **24. Contact**

We are a company registered in England and Wales under registration number 03906401 under the name Golf Apps Limited; You can contact us through our website ([www.iGolfApps.com](http://www.iGolfApps.com)). We will send our notices to you by email to the email address specified in your Account.

## **Privacy Policy**

This Privacy Policy governs the manner in which Golf Apps LTD collects, uses, maintains and discloses information collected from users (each, a "User") of the Swing Plane and SwingPlane HD applications ("app"). This privacy policy applies to the app and all products and services offered by Golf Apps LTD.

### **Personal identification information**

We may collect personal identification information from Users in a variety of ways, including, but not limited to, when Users visit our app, register on the app, place an order, fill out a form, and in connection with other activities, services, features or resources we make available on our app. Users may be asked for, as appropriate, name, email address. We will collect personal identification information from Users only if they voluntarily submit such information to us. Users can always refuse to supply personally identification information, except that it may prevent them from engaging in certain app related activities.

### **Non-personal identification information**

We may collect non-personal identification information about Users whenever they interact with our app or website. Non-personal identification information may include the browser name, the type of computer and technical information about Users means of connection to our app, such as the operating system and the Internet service providers utilized and other similar information.

### **How we use collected information**

Golf Apps LTD may collect and use Users personal information for the following purposes:

- To improve customer service

Information you provide helps us respond to your customer service requests and support needs more efficiently.

- To personalize user experience

We may use information in the aggregate to understand how our Users as a group use the services and resources provided on our app.

- To process payments

We may use the information Users provide about themselves when placing an order only to provide service to that order. We do not share this information with outside parties except to the extent necessary to provide the service.

- To send periodic emails

We may use the email address to send User information and updates pertaining to their order. It may also be used to respond to their inquiries, questions, and/or other requests. If User decides to opt-in to our mailing list, they will receive emails that may include company news, updates, related product or service information, etc. If at any time the User would like to unsubscribe from receiving future emails, we include detailed unsubscribe instructions at the bottom of each email.

### **How we protect your information**

We adopt appropriate data collection, storage and processing practices and security measures to protect against unauthorized access, alteration, disclosure or destruction of

your personal information, username, password, transaction information and data stored on our app.

Sensitive and private data exchange between the app and its Users happens over a SSL secured communication channel and is encrypted and protected with digital signatures.

### **Sharing your personal information**

We do not sell, trade, or rent Users personal identification information to others. We may share generic aggregated demographic information not linked to any personal identification information regarding visitors and users with our business partners, trusted affiliates and advertisers for the purposes outlined above. We may use third party service providers to help us operate our business and the app or administer activities on our behalf, such as sending out newsletters or surveys. We may share your information with these third parties for those limited purposes provided that you have given us your permission.

### **Third parties**

Users may find advertising or other content on our app or website that link to the apps and services of our partners, suppliers, advertisers, sponsors, licensors and other third parties. We do not control the content or links that appear on these apps and are not responsible for the practices employed by other parties linked to or from our app. In addition, these apps or services, including their content and links, may be constantly changing. These apps and services may have their own privacy policies and customer service policies. Browsing and interaction on any other website or app, including those which have a link to our app, is subject to that parties own terms and policies.

### **Changes to this privacy policy**

Golf Apps LTD has the discretion to update this privacy policy at any time. When we do, we will post a notification on the main page of our website. We encourage Users to frequently check this page for any changes to stay informed about how we are helping to protect the personal information we collect. You acknowledge and agree that it is your responsibility to review this privacy policy periodically and become aware of modifications.

### **Your acceptance of these terms**

By using this app, you signify your acceptance of this policy. If you do not agree to this policy, please do not use our app. Your continued use of the app following the posting of changes to this policy will be deemed your acceptance of those changes.

### **Contacting us**

If you have any questions about this Privacy Policy, the practices of this app, or your dealings with this app, please contact us at: [admin@iGolfApps.com](mailto:admin@iGolfApps.com)

This document was last updated on May 14, 2014